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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/550,262

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Jobst Horentrup

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EXAMINER

BELOUSOV, ANDREY

ART UNIT

PAPER NUMBER

2174

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/550,262	<b>Applicant(s)</b> HORENTRUP ET AL.	
	<b>Examiner</b> ANDREY BELOUSOV	<b>Art Unit</b> 2174	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3,5,6,8,10-12,14,15 and 17-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,5,6,8,10-12,14,15 and 17-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. This action is in responsive to the amendment filed on 10/24/2008. Claims 9 and 16 were cancelled. Claims 1, 3, 5-6, 8, 10-12, 14-15, and 17-25 are pending and have been considered below.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3, 5, 8, 10-12, 14-15, 17-21, 23, and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Toot (Flash 5 by Macromedia, as evidenced by Michael Toot, Flash 5 In an Instant, Published in December 2001 by IDG Books.)

**Claim 1, 10, 25:** Toot discloses a method for representing menu buttons in a menu for controlling the presentation of video data stored on a storage medium, the menu buttons having one out of three states, the states being normal, selected or activated, wherein (pg. 167: Up, Over, Down, Hit) the video data are (pg. 178, short movie clip) presented on a display according to a given video frame rate (it is inherent that the video data, short movie clip, would have a frame rate), the method comprising the steps of

Art Unit: 2174

- a. retrieving from said storage medium data describing the menu buttons, the data comprising, for each button, image data (pg. 172-174);
- b. retrieving from said storage medium a value representing a relative rate (pg. 174, e.g. 12.0 fps) for animating a sequence of pictures (pg. 174, button animation), wherein the rate is relative (it is inherent that there would be an implicit relationship (relative) between 'the rate' and the 'video frame rate', e.g. 0.5, 1.0, 2.0, etc.) with respect to the video frame rate; and
- c. representing the menu buttons on said display (pg. 174-177),
- d. wherein a menu button is represented by different images corresponding to different image data depending on its state being normal, selected or activated (pg. 172), and
- e. wherein the image data representing a particular menu button state includes a sequence of pictures (pg. 174-176, button animation, e.g. leaf spin) the sequence of pictures being animated according to said relative rate.

**Claim 3, 11:** Toot discloses the method as claimed in claim 1, wherein for a particular state of a menu button, said sequence of pictures representing said button is repeated as long as the button remains in particular state (pg. 174-176: Leaf Spin.)

**Claim 5, 12, 15:** Toot discloses the method as claimed in claim 1 wherein a sound or sound sequence is associated to a particular state of a particular menu button, the

Art Unit: 2174

sound or sound sequence being played back upon entry of the button into the associated state (pg. 168.)

**Claim 8, 14:** Toot discloses the method as claimed in claim 1 wherein said storage medium comprises a data segment defining a page composition, the data segment containing said data representing the menu buttons (pg. 169) and said value representing a rate for animating a sequence of pictures (pg. 169, “12.0 fps.”)

**Claim 17, 19:** Toot discloses the method as claimed in claim 1 wherein said data describing the menu buttons further comprise two region identifiers per button state (scaling from a larger to small region, pg. 168), and each button image is addressable through at least one of said region identifiers (pg. 168.)

**Claim 18, 20:** Toot discloses the method as claimed in claim 17 wherein said two region identifiers per button state specify a range of regions (from a larger to smaller, pg. 168), and each of the two region identifiers addresses a button image of said sequence of pictures (pg. 168.)

**Claim 21, 23:** Toot discloses the method as claimed in claim 1, further comprising the step of setting, according to said retrieved value, the relative rate for animating sequence of pictures (pg. 169, “12.0 fps.”)

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 6, 22 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Toot (Flash 5 by Macromedia, as evidenced by Michael Toot, Flash 5 In an Instant, Published in December 2001 by IDG Books) in view of Franklin (Flash 5! Creative Web Animation, Published December 22, 2000 by Macromedia Press.)

**Claim 6:** Toot discloses the method as claimed in claim 5. However, Toot does not explicitly disclose wherein the sound is a speech sequence. Franklin teaches with regard to the same Flash 5 application, including wherein the sound associated with a state of a menu button is a speech sequence (Chapter 5, 4<sup>th</sup> paragraph: “vocal track”). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the disclosures of Toot and Franklin. One would have been motivated to combine the teachings of Toot and Franklin as Franklin was a disclosure on the same Flash 5 application as in Toot.

**Claim 22, 24:** Toot discloses the method as claimed in claim 1, wherein said relative rate at which the sequence of pictures is animated is an integer fraction (e.g. 1/4, 1/8,

Art Unit: 2174

4/1, or 8/1, etc.; i.e. all possible real values) of the video frame rate. However, Toot does not explicitly disclose wherein said relative rate at which the sequence of pictures is animated is lower than the video frame rate. Franklin teaches with regard to the same Flash 5 application, including wherein said relative rate (i.e. button animation, pg. 4 of 8 indicates that the relative rate (fps) can be set to any frame rate, including one that is lower than the short movie clip video frame) at which the sequence of pictures is animated is lower than the video frame rate (the short movie clip.) Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the disclosures of Toot and Franklin. One would have been motivated to combine the teachings of Toot and Franklin as Franklin was a disclosure on the same Flash 5 application as in Toot.

### ***Response to Arguments***

6. Applicant's arguments with respect to claims 1, 3, 5-6, 8, 10-12, 14-15, and 17-25 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Belousov whose telephone number is (571) 270-1695. The examiner can normally be reached on Mon-Fri (alternate Fri off) EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Hong can be reached on (571) 272-4124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-3800.



Art Unit: 2174

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Steven P Sax/  
Primary Examiner, Art Unit 2174

AB  
January 13, 2009

Application/Control Number: 10/550,262  
Art Unit: 2174

Page 9